



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/165859

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on May 21, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the OIG correctly determined the number of personal care worker (PCW) hours for petitioner pursuant to his prior authorization (PA) request.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submittal of: Cindy Zander, RN, BSN
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner lives with family and is diagnosed with lumbago, sciatica, scoliosis, joint pain, backache, and has an above the knee amputation of his right leg.

3. On April 15, 2015, Quality Assurance Home Health Services requested prior authorization on petitioner's behalf for 14 hours/56 units per week of PCW services 7 hours/28 units of PCW travel time and 6 skilled nursing (SN) visits to be used needed (PRN) (PA # [REDACTED]) to begin April 17, 2015.
4. By a notice dated April 17, 2015, the OIG modified the requested hours for PCW services and granted 10.25 hours/41 units of PCW services and 7 hours/28 units of PCW travel time.

DISCUSSION

MA coverage of PCW services is described in the Wis. Adm. Code, §DHS 107.112. Covered services are specified in subsection (1), and are defined generally as "medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community." Examples of covered services are assistance with bathing, with getting in and out of bed, with mobility and ambulating, with dressing and undressing, and meal preparation. In determining the number of PCW hours to authorize the OIG uses that standard along with the general medical necessity standard found at Wis. Adm. Code, §DHS 101.03(96m). It provides:

"Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, §DHS 101.03(96m).

To determine the number of PCW hours to authorize the OIG uses the Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the OIG's reviewer can then adjust to account for variables missing from the screening tool's calculations.

The OIG allowed time for bathing, dressing lower body, placement of prosthesis, toileting and services incidental to task (e.g., cleaning, laundry, meal preparation). Based on all the evidence at hearing, I find that the petitioner should be awarded an additional 20 minutes daily (140 minutes weekly) for mobility with assistance up and down the stairs in his home. Petitioner described his pain, use of the prosthetic,

and his needs for assistance on the stairs. I am also allowing him an additional 5 minutes weekly for grooming (toe nails) for the same reasons he needs assistance with the Activities of Daily Living that the OIG awarded.

All of this results in a total additional allocation of 145 minutes weekly. With a 25% addition for tasks incidental to the services there is an additional 36.25 weekly minutes, and thus the total time allocated is 181.25 minutes weekly, as an additional 3.2 hours weekly, or 12.08 units weekly. (This brings the total weekly hours to 13.45 once these hours are added to those already allowed.)

If petitioner still needs additional PCW time beyond that granted here, his provider may file an amendment to the prior authorization request correcting the problems and explaining more fully the need for the PCW hours. This includes the skilled nursing visits, as no evidence was provided at hearing to support that portion of the PA request.

Finally, I note for Petitioner that his provider will not receive a copy of this Decision. In order to have the personal care services involved here approved, the Petitioner must provide a copy of this Decision to Quality Assurance Home Health Services. The provider must then submit a new prior authorization request to receive the approved coverage, along with a copy of this Decision.

CONCLUSIONS OF LAW

That the evidence offered on behalf of Petitioner is sufficient to demonstrate he requires an additional 3.2 hours weekly, or 12.08 units weekly of PCW services per week.

THEREFORE, it is

ORDERED

That Petitioner's provider may re-submit a PA request for 12.08 units /week beginning April 17, 2015 for PCW services and its invoice, along with a copy of this decision, to ForwardHealth for payment and ForwardHealth is directed to make payment accordingly.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

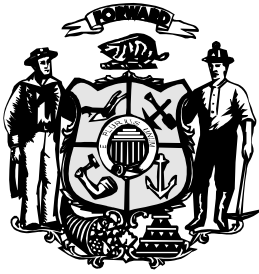
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 20th day of July, 2015

\s\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



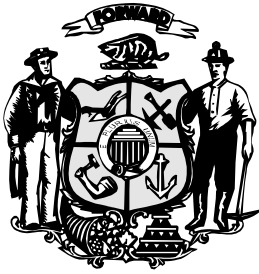
State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 20, 2015.

Division of Health Care Access and Accountability



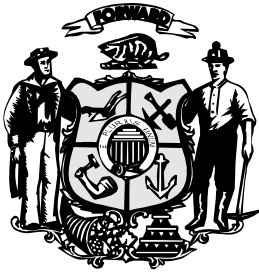
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